

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

|                        |   |                       |
|------------------------|---|-----------------------|
| VINCENT LUMINOSO,      | ) |                       |
|                        | ) |                       |
| Plaintiff,             | ) |                       |
|                        | ) |                       |
| v.                     | ) | No. 1:17-CV-00330-GCM |
|                        | ) |                       |
| NANCY A. BERRYHILL,    | ) |                       |
| Acting Commissioner of | ) |                       |
| Social Security,       | ) |                       |
|                        | ) |                       |
| Defendant.             | ) |                       |
|                        | ) |                       |

**ORDER**

**THIS MATTER** is before the Court on the Defendant’s Consent Motion for Entry of Judgment with Remand Under Sentence Six of 42 U.S.C. § 405(g). (Doc. No. 5). Plaintiff consents to the Motion.

Sentence Six reads, in relevant part, “The court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner’s answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security . . . .” The Court finds that the Commissioner has moved for remand prior to filing her answer and has shown good cause for this remand in light of the new evidence submitted in support of Plaintiff’s disability application.

It is therefore **ORDERED** that this matter is hereby **REMANDED** to the Commissioner for further proceedings, pursuant to sentence six of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g). Upon remand, the Appeals Council will determine whether the evidence supports a finding of disability. If the evidence does not support such a finding, the Appeals Council will remand the case to an Administrative Law Judge to consider the additional evidence

submitted, further evaluate the claimant's residual functional capacity and consider whether there are a significant number of jobs in the national economy that the claimant could perform.

Because this case is being remanded under sentence six of 42 U.S.C. § 405(g), this Court shall retain jurisdiction of this case while it is pending before the Commissioner. *See Melkonyan v. Sullivan*, 501 U.S. 89, 98 (1991). The Commissioner shall, after the proceedings on remand have concluded, “file with the Court any such additional and modified findings of fact and decision, and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript of the additional record and testimony upon which the Commissioner's action in modifying or affirming was based.” 42 U.S.C. § 405(g)

**SO ORDERED.**

Signed: February 26, 2018

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

